

THE  
French Spoliation Claims

AND

RHODE ISLAND CLAIMANTS,

A PAPER READ BEFORE THE RHODE ISLAND HISTORICAL  
SOCIETY, DECEMBER 1, 1885.

BY

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*Reprinted from Narragansett Historical Register, January, 1886.*

PROVIDENCE:  
E. L. FREEMAN & SON, STATE PRINTERS,  
1885.

THE FRENCH SPOILIATION CLAIMS AND  
RHODE ISLAND CLAIMANTS.

*A paper read before the Rhode Island Historical Society,  
December 1, 1885, by Amasa M. Eaton, Esq.,  
of Providence.*

**T**HIS subject is but a memory of the past to those of the present generation. But the passage by Congress of the act for the relief of the descendants of claimants has awakened general interest in the subject, and it will prove interesting and instructive to examine its history.

In December, 1776, the United States, recognizing the benefit of an alliance with France, offered to the French Government a subsidy of two millions of dollars worth of provisions and six frigates, our assistance in the recovery of certain islands and rights then in the possession of England, and any other assistance which might be in our power, as good allies, if France would help us by an offensive alliance against Great Britain (*Secret Journal of Congress, vol. ii., pp. 30, 38, 39, 40.*) Then came the darkest hour of our struggle with Great Britain,—when, in the midst of gloom and suffering, our soldiers at Valley Forge, hungry, barefoot and in rags, Washington wrote to Congress that, “unless some great and capital change takes place the army must be inevitably reduced to one or the other of three things—starve, dissolve or disperse.”

The great and capital change did come, and to the great rejoicing of this country the news was received during the darkest hours of our struggle with England that a treaty of alliance had been signed by Franklin and the other plenipotentiaries on the 6th of February, 1778, between France and the United States (*Statutes at Large, vol. viii., p. 6.*) On



the same day another treaty, called the treaty of amity and commerce, was also entered into between the same States (*Statutes at Large, vol. viii., p. 13.*)

By Article 11 of the first named treaty the contracting parties guaranteed "mutually from the present time and forever against all other powers, to wit, the United States to His Most Christian Majesty, the present possession of the crown of France in America, as well as those which it may acquire by the future treaty of peace. And His Most Christian Majesty guarantees on his part, to the United States, their liberty, sovereignty and independence, absolute and unlimited, as well in matters of commerce, and also their possessions and the additions or conquests that their confederation may obtain during the war from any of the dominions now or heretofore possessed by Great Britain in North America," &c.

Article 12 provided this reciprocal guaranty should take effect the moment war should break out between France and England, and by Article 17 of the second treaty each country agreed to open its ports to the ships of war and privateers of the other, and to close them to those of the enemy of either, except when driven in by stress of weather.

And by the Consular Convention, so called, of November 14, 1788, between the United States and France, it was agreed that the consuls of each nation should have jurisdiction in the ports of the other in all civil cases relating to the vessels and crews of their own nation.

But after the successful issue of our Revolution, it was felt in the United States that we had promised too much. Public sentiment, which gradually took shape in the Munroe doctrine, now an accepted principle of every political party, gradually but definitely recognized the fact that we should not entangle ourselves in the affairs of Europe nor allow any foreign power to restrict our dealings with other nations. Hence, when difficulties arose between France and England, and France turned to us for that help which she felt she had a right to expect, great was her disappointment to find our statesmen

inclined to neutrality and a withdrawal from our treaty obligations with her.

Under the leadership of Jefferson, who hated the English, and the tendency of the Federalists, headed by Hamilton, to further assimilation of English principles, the Democratic party was inclined towards the support of the French. But such a course was bitterly resented by many, including the Federalists generally, and party feeling ran high. The French Revolution burst forth in all its fury and war ensued in 1793 between France and England. The most bitter difference of opinion arose in this country and in the Cabinet between the sections briefly described, as to the course to be pursued by the United States, some holding that the obligations of the treaty guaranties ceased with the cessation of the French monarchy, others holding that they were perpetual, whatever the form of government of France. The famous proclamation of neutrality of the United States was issued April 22d, 1793. (*Senate Doc. No. 102, 1826, p. 249.*)

Chief Justice Marshall, with the very best opportunities for correct knowledge, says that the proclamation was intended to prevent the French Minister from demanding the performance of the guarantee contained in the treaty of alliance. The French Minister reported to the French Government "that the Secretary of War, on my communicating the wish of the Windward Islands to receive promptly some firearms and some cannon, which might put into a state of defence, possessions guaranteed by the United States, had the front to answer, with an ironical carelessness, that the principles established by the President did not permit him to lend so much as a pistol."

The effect of the proclamation and of the resulting course pursued by this country was to annul the treaty, although all intention to annul it was denied at the time. Looked at from the point of view of the best political policy for this country to follow, this proclamation of neutrality takes high rank. Politically we were wise, but morally we were wrong. It

would have been more honest to ask for the abrogation of the treaty. But the public and Congress were divided and distracted in opinion. Party feeling ran high, and bitterness and animosity reigned to an extent of which we can form no idea now except from critical study of the history and spirit of that time. We are told that a man would cross the street to avoid recognition of an acquaintance who was of the opposite side in politics, and men would not make their daily purchases except of shopkeepers of their own party!

None foresaw the results that followed, the estrangement between us and France, the mutual wrongdoing, until at last we stood upon the brink of war with that power without whose aid we might not have achieved our independence. None foresaw that the course entered upon was virtually an attempt to abrogate the treaties in the worst way a treaty can be abrogated, *i. e.*, by its repudiation by one of the contracting parties without the assent of the other party.

But blameworthy as was our conduct that of France was equally so. Only seventeen days after our proclamation of neutrality, and therefore before knowledge of it had reached France, the National Convention of France, on the 9th of May, 1793, issued a decree authorizing French ships of war and privateers to arrest and bring into the ports of the republic all neutral vessels laden either wholly or in part with neutral articles of provisions belonging to neutral nations and destined for an enemy's port, or with merchandise belonging to an enemy. This decree was issued in retaliation for the English attempt to starve the French by general blockade and seizure of neutral vessels with provisions on their way to France. So rigorously were these measures enforced by England that the English market was glutted with provision, while in France flour sold at forty dollars a barrel. It was admitted, in this decree itself, that it was a violation of the rights of neutrals, but the necessity of the case was urged as an excuse, and indemnity was promised to neutrals who might suffer by its operation. As the decree was a

direct violation of the 23d article of our treaty of commerce, Mr. Morris, then resident minister of the United States at Paris, remonstrated and claimed exemption for American vessels from its operation, according to the terms of the treaty.

On the 23d of May, 1793, the National Convention formally declared that vessels of the United States were not to be included in the operation of this decree. Such was the instability of the French, however, that this decree of May 23d was abrogated by decree May 28th, and after various contradictory decrees, American commerce was left exposed to destruction under the first decree, that of May 9th. What with the consequent illegal acts of French privateers and the retaliatory acts of the British Government, many of our vessels were captured amidst excesses of all kinds, and a vast amount of American property was destroyed.

When information of these acts of spoliation reached the United States, the result was disastrous to confidence in maritime business. Merchants hesitated to expose their ships and cargoes to such risks. To restore confidence, our Government came forward with voluntary assurances of protection and redress, and Jefferson, then Secretary of State, issued a circular letter dated August 27th, 1793, in which he said:

"Complaint having been made to the Government of some instances of unjustifiable vexation and spoliation committed on our merchant vessels by the privateers of the powers at war, and it being possible that other instances may have happened, of which no information has been given to the Government, I have it in charge from the President to assure the merchants of the United States concerned in foreign commerce that due attention will be paid to any injuries on the high seas or in foreign countries, contrary to the law of nations, or to existing treaties; and that, on their forwarding hither, to the Department of State, well authenticated evidence of the same, proper proceedings will be adopted for their relief." (*Senate Document 102, 1826, p. 216.*)

President Washington, in his message of December 5th, 1793, also referred to these acts of spoliation, as follows:



"The vexations and spoliations understood to have been committed on our vessels and commerce by the cruisers and officers of some of the belligerent powers, appeared to require attention. The proofs of these, however, not having been brought forward, the description of citizens supposed to have suffered were notified that on furnishing them to the Executive, due measures would be taken to obtain redress of the past and more effectual provisions against the future." (*Senate Doc. 102, 1826, p. 253.*)

In commenting on these official declarations, Charles Sumner says:

"Here, then, was a double promise from the national government, under the influence of which our merchants continued their commerce and ventured once more upon the ocean. Their Government had tempted them, and on the occurrence of 'injuries on the high seas' these good citizens, according to instructions, made haste to lodge with the Department of State the 'well authenticated evidences of the same.' Their grandchildren and great-grandchildren are waiting, even now, the promised redress. (*Senate Report 10, 41st Congress, 2d session, 1870.*)

In response, our merchants lodged with the State Department their evidences of losses. The Department forwarded these papers to France, and strange as it may seem, kept no copies or records of them. They cannot be found now in Paris, and this accounts for part of the difficulty now met with in getting proof of these losses.

The French Minister to the United States, Fauchet, under date of March 27th, 1794, wrote to our Secretary of State:

"If any of your merchants have suffered any injury by the conduct of our privateers (a thing which would be contrary to the intention and express order of the republic) they may, with confidence, address themselves to the French Government, which will never refuse justice to those whose claims are legal." (*Senate Doc. 102, 1826, p. 263.*)

Mr. Morris, our Minister at Paris, wrote, March 6th, 1794:

"These captures create great confusion, must produce much damage to mercantile men, and are a source of endless and

well-founded complaint. Every post brings me piles of letters about it from all quarters, and I see no remedy. \* \* \* \*  
In the meantime, if I would give way to the clamors of the injured parties, I ought to make demands very like a declaration of war." (*Senate Doc. No. 102, 1826, p. 77.*)

July 5th, 1794, the French Commissioner of Foreign Relations wrote to Mr. Morris:

"The sentiments of the Convention and of the Government towards your fellow-citizens are too well known to you to leave a doubt of their disposition to make good the losses which circumstances inseparable from a great revolution may have caused some American navigators to experience. (*Senate Doc. No. 102, 1826, p. 77.*)

We cannot stop to examine the history of the negotiations which led to the adoption of the treaty with Great Britain known as Jay's Treaty, dated November 19th, 1794. It was long held under advisement by our Senate, and was finally ratified in February, 1796. Historians relate at length the animosities aroused, already referred to, and the division in public opinion and sentiment of the time. The treaty was the culmination of the policy which amounted to the abrogation of our treaty obligations with France. The two treaties could not stand side by side. One or the other must be inoperative because they were contradictory. The treaty with England gave the same exclusive rights to her ships of war and privateers to shelter, etc., in our ports, and to sell their prizes, etc., that we had already given, also exclusively, to France. One of the articles of the treaty with England provided that prizes made by either England or the United States should be free to enter the ports of the other, and that no shelter or refuge should be given in the ports of either to such as should have made a prize upon the subjects or citizens of either. This was in direct contravention of our treaty with France.

Other objectionable articles in the British treaty were the surrender of the principle that "free ships make free goods" and the allowing English cruisers to capture goods or subjects of their enemies from our vessels, thus rendering French prop-



erty and Frenchmen on board our ships liable to seizure, while the property and persons of the enemies of France, similarly situated, were protected by the 23d article of our treaty with France of 1778. Here we find the germ of the English doctrine afterwards asserted of "the right of search," one of the causes of our next war with her.

The list of contraband articles was also much extended in the Jay treaty as compared with the list in the French treaty. This was particularly injurious to France, then fighting against Europe generally, by increasing the difficulty of procuring articles of which she was then in great need. It helped to render more effective the English plan of starving the French into submission, by making more complete the English control of the high seas. Our Government immediately prohibited French privateers from fitting out vessels or from selling their prizes in our ports.

Upon deliberate examination of all these facts, the conclusion is inevitable that the course pursued by the United States was indefensible. The opportunity was given to us to negotiate a new treaty with France, but we declined it, and then deliberately violated the old treaty, and persistently maintained that course. The French Minister wrote, November 14th, 1793, to our Secretary of State:

"I beg you to lay open to the President the decree and the enclosed note, and to obtain from him the earliest decision, either the guarantee I have claimed the fulfilment of for our colonies, or upon the mode of negotiation of the new treaty I was charged to propose to the United States, which would make of the two nations but one family." (*American State Papers, 1 Foreign Affairs, p. 199.*)

The guarantee here referred to was the perpetual guarantee to the French of their possessions in America, before explained. At the time of the execution of the treaty these possessions were the islands of St. Domingo, Martinique, Guadeloupe, Ste. Lucie, St. Vincent, Tobago, Descada, Mariegalante, St. Pierre, Miquelon, Granada, and, on the mainland, Cayenne. The oc-

casian for the enforcement of this guarantee had already become urgent, for many of these islands were lost to the French in 1793, and, Alison says in his History, vol. iii., p. 396, "with hardly any loss to the victorious nation."

The news of the Jay treaty with England moved the whole French nation to indignation, as well it might. In conversation with Mr. Munroe, then our Minister to France, the French Minister said "that France had much cause of complaint against us independently of our treaty with England, but that, by this treaty, ours with them was annihilated." (*American State Papers, 1 Foreign Affairs, p. 731.*)

M. Adet, the French plenipotentiary to the United States, addressed our Government as follows:

"The undersigned, minister plenipotentiary of the French Republic, now fulfills to the Secretary of State of the United States a painful but sacred duty. He claims, in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence, and which France regarded as the pledge of the most sacred union between two people, the freest upon earth." (*American State Papers, 1 Foreign Affairs, p. 579.*)

In retaliation for our conduct the French Government passed three decrees. The first was to the effect that all neutrals would be treated in the same way as they might allow the English to treat the French. Under the second, the stipulations of the treaty of 1778 concerning the neutrality of the flags were suspended, and were altered in most essential points; and under the third decree the list of contraband of war was enlarged, Americans in the service of England were declared to be pirates, and certain documents were declared to be necessary to determine the national character of American ships. Among these documents a *rôle d'équipage* (a list of the crew in a particular form) was declared essential, although the 25th article of the treaty of 1778 specifically prescribed the form of sea letter to be used by the vessels of the two countries.

On the 30th of April, 1797, the French Minister of Marine was requested to declare officially whether American vessels not having a *rôle d'équipage* were good prize and whether the cargoes of such ships were also lawful prize. He decided that every American vessel without such a *rôle* was an enemy, and that therefore both vessel and cargo were subject to confiscation. The number of captures of American vessels now increased rapidly, and all remonstrances were in vain. The French, while admitting these decrees to be in conflict with the treaty, persisted in carrying them into effect. No matter what trade American vessels were engaged in, or with whom they were trading, they were seized and confiscated, against all law, under the color of law. Reprehensible as our conduct had been, that of the French was now equally so. In the remaining French islands in the West Indies the same spirit was manifested, and the plunder derived from this source formed the principal part of their revenue. In a report to the French Directory from their government it was stated: "That having found no resource in finance, and knowing the unfriendly disposition of the Americans, and to avoid perishing in distress, they had armed for cruising, and that already eighty-seven cruisers were at sea; and that for three months preceding, the administration had subsisted, and individuals been enriched, by the product of their prizes. They felicitated themselves that American vessels were daily taken, and declared they had learned, by divers persons from the continent, that the Americans were corrupt, perfidious, the friends of England, and that their vessels no longer entered the French ports unless carried in by force."

I have made thorough examination of all the registers, manifests and protests in the Custom Houses in Providence and Newport, and these records, of which I have minutes, show that a large proportion of the losses incurred in this State were incurred at this period in this way, our vessels having been captured and taken into the French ports in the West India islands and there condemned and sold. During

the last summer all these records have been forwarded to the Department of State in Washington, in response to directions received from the Government, to be used as evidence, either by claimants or the Government, in the trial of petitions for indemnity before the Court of Claims, under the terms of the Act of Congress of last winter, which I will explain later.

Lest the statements made of the conduct of the French may be thought to be exaggerated, I will quote an extract from a report made by our Secretary of State to the President, in reply to a resolution of the House of Representatives, on the 21st of June, 1797. After mentioning the French decrees, the report says:

"Besides these several decrees, and others, which, being more limited, the former have superseded, the old marine ordinances of France have been revived and enforced with severity both in Europe and the West Indies. The want of or informality in a bill of lading, the want of a certified list of the passengers and crew, the supercargo being by birth a foreigner, although a naturalized citizen of the United States, the destruction of a paper of any kind soever, and the want of a sea letter, have been deemed sufficient to warrant a condemnation of American vessels and property, although the proofs of the property were indubitable. The West Indies, as before remarked, have exhibited the most lamentable scene of depredation. Indeed, the conduct of the public agents and of the commissioned cruisers there has surpassed all former examples. The American vessels have not only been captured under the decrees before mentioned, but when brought to trial in the French tribunals the vessels and cargoes have been condemned without admitting the owners or their agents to make any defence. This seems to be done systematically and for the obvious purpose of ensuring condemnations. By this monstrous abuse in judicial proceedings, frauds and falsehoods, as well as flimsy and shameless pretexts, pass unexamined and uncontradicted, and are made the foundation of sentences of condemnation."

The differences between the two countries had now assumed definite form, and we were on the verge of war. The French Government had valid claims against our Government for in-



fraction of treaty obligations, and our citizens held valid claims against the French Government for acts of spoliation committed by her privateers upon our commerce. How were the two countries to extricate themselves from the dilemma?

In June, 1797, Messrs. Pinckney, Marshall and Gerry were appointed by the President of the United States Envoys Extraordinary and Ministers Plenipotentiary "to negotiate with the French Government on all subjects of difference between the two nations, and to make a treaty or convention for determining the same."

The Secretary of State, Mr. Pickering, in his letter of instructions to these envoys, dated July 15, 1797, said :

"Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty. You are not, however, to renounce these claims of our citizens, nor to stipulate that they be assumed by the United States as a loan to the French Government."

The envoys were also instructed to buy a release of our guarantee of the French islands, and they were authorized to offer to France a war subsidy in money or in provisions to the amount of two hundred thousand dollars annually.

But their mission was in vain. They were first indirectly asked to pay a bribe, under the pleasanter name of a *gratification*, of twelve hundred thousand francs! which, of course, they refused to pay. They were not allowed to hold official intercourse with the French Government. They remained some time in Paris on sufferance, and held informal interviews with Talleyrand and others, but could accomplish nothing, so they returned to America. Washington was called upon to be in readiness, for war with France was impending and was almost daily expected.

An Act of Congress of May 28th, 1798, authorized our navy to capture "armed vessels of the Republic of France which

have committed or shall be found hovering on the coast of the United States for the purpose of committing depredations on vessels belonging to citizens thereof." An Act of June 13th, 1798, suspended all commercial intercourse between the United States and France "until the Government of France shall clearly disavow and shall be found to refrain from the aggressions, depredations and hostilities by them encouraged and maintained against the vessels and other property of the United States."

The next Act of Congress of June 25th, 1798, authorized merchant vessels of the United States to resist search or seizure by any armed French vessel, to repel assaults and to capture the aggressors until "the Government of France shall cause the commanders and crews of all armed French vessels to refrain from the lawless depredations and outrages hitherto encouraged and authorized by that Government against the merchant vessels of the United States."

Finally, by Act of Congress of July 7th, 1798, the treaties with France were declared to be annulled and no longer obligatory, the preamble stating "that the just claims of the United States for reparation of injuries had been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations had been repelled with indignity." The treaties with France were thus declared to be annulled on the ground that France had violated them. It is true the treaty of amity and commerce had been violated by France. But it had never been alleged that France had violated the treaty of alliance; on the contrary, France had strictly and honorably fulfilled all her obligations under it. She helped us to win our independence at a cost estimated at two hundred and eighty millions of dollars in money and untold loss of priceless human lives. The only violation of the treaty of alliance was on the part of the United States in issuing the declaration of neutrality and in nullifying the treaty by the Act of Congress of July 7th, 1798, so far as such acts could effect its nullification. France, very naturally



and very properly, denied the right or the power of either party to annul a treaty without the consent of the other party to the treaty. It is clear that where there are two treaties, as in this case, the violation of one of them does not affect the other; the treaty of alliance should have been held as still in force, even if the treaty of amity and commerce was legally annulled by the Act of Congress of July 7th, 1798. (*See Vattel, p. 275.*)

John Adams became President, and in 1799, desirous of a peaceful settlement with France, and upon her invitation, he appointed a new commission consisting of Chief Justice Ellsworth, Davie and Murray as Envoys to France. Their instructions were to secure indemnity for spoliation on our commerce, the cessation of the seizure of American vessels for want of the technical *rôle d'équipage*, the termination of our guarantee of the French West India islands, the abrogation of all the treaties between France and the United States, and the formation of a new treaty in which all obligations should be specified. From these instructions it is apparent that while our Government meant to do away with the burden of the national guarantee, it also meant to secure indemnity for the just claims of our citizens.

We have not time now to follow the negotiations that took place in Paris. Propositions and counter-propositions were made and rejected by both parties. It is enough for our purpose to know that France at last offered two propositions, one being the acknowledgment of the continuance of the old treaties by the United States, in which case France offered full indemnity for her illegal spoliations on our commerce, the other proposition being that a new treaty should be entered into, doing away with the perpetual guarantee to the French of their possessions in America and with the other provisions of the old treaties, France to be placed on an equality with the most favored nation by the United States, in which case no indemnity for spoliation would be made by France. This proposition, as stated by Webster in his speech on French

Spoliations in the Senate, January 12th, 1835, was, to quote his words:

“If you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our special privileges under the former treaties and agree to a new treaty which shall only put us on a footing of equality with Great Britain, our enemy.” (*4 Webster's Works, p. 173.*)

Our envoys did not feel that they were authorized to accept either proposition. They wrote home August 15th, 1800, that it had now become manifest that negotiations must be abandoned or their instructions must be deviated from. Further negotiation ensued. At last our envoys determined it would be best to make some temporary arrangement which would extricate the United States from the situation in which they were involved, save the immense property of American citizens then awaiting adjudication before the French Council of Prizes, and secure, as far as possible, American commerce against the abuses of capture during the war then existing between France and England. Sept. 4th, 1800, the French Government proposed that the indemnities due by France to the citizens of the United States should be paid by the United States, France, in return, to yield the exclusive privileges secured to her under the 17th and 22d articles of the treaty of commerce and the rights under the guarantee of the 11th article of the treaty of alliance. Here was a distinct proposition of set off. The United States were to assume and pay the just claims of American citizens against France, and France was to relinquish her claims against the United States arising under the treaties, and also the guarantee and the exclusive rights thereunder. Our envoys declared these propositions to be inadmissible. The conferences continued through the month, and on September 30th, 1800, a “provisional treaty” was agreed upon. At the request of the

French, this title, which too plainly showed its temporary character, was subsequently changed to that of "convention," which name it still bears on our statute book.

Article 2 is as follows:

"The ministers plenipotentiary of the two parties, not being able to agree at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date and the convention of the 14th of November, 1778, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be as follows:—"

The next two articles provided for the mutual restoration of vessels and property captured, but not yet condemned: the fifth and last article provided that "the debts contracted by one of the two nations with individuals of the other, or by the individuals of the one with the individuals of the other, shall be paid; or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

This convention was signed at Morfortaine, the country seat of Joseph Bonaparte, and the occasion was made a festival, which has been celebrated by the engraving of Piranesi. The First Consul, Lafayette and other notables were guests there, and Napoleon proposed as a toast, "The manes of the French and the Americans who died on the field of battle for the independence of the new world."

This convention, after it was signed by the ministers of the two countries, was sent to the United States, and submitted by the President to the Senate; and the Senate, on the 3d of February, 1801, consented to and advised its ratification, provided the second article be expunged and the following inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the ex-

change of the ratifications," which change received the approval of the President, February 8th, 1801, by his proclamation announcing the ratification, "saving and excepting the second article, which is declared to be expunged, and of no force or validity." (*Statutes at Large, vol. viii., p. 192.*)

Mr. Murray, our Minister in Paris, wrote home his fear that the French Government would still press for an article of formal abandonment of our claims for spoliation, which he wrote he should evade. The French feared that the unconditional suppression of the second article would leave them still exposed to the claims of the United States without any chance to advance their counter-claims. They did not object to a mutual abandonment of claims, which, in the language of Mr. Murray, "would always be a set-off against each other."

At last, on the 31st of July, 1801, the convention was ratified by Napoleon, then First Consul, with the addition made by our Senate limiting it to eight years, and with the retrenchment of the second article by our Senate—the whole with the proviso added by the First Consul "that by this retrenchment the two States renounce the respective pretensions, which are the object of the said article."

It was again returned to the United States, and Jefferson, who meanwhile had succeeded Adams as President, again submitted it to the Senate, which, on the 19th of December, 1801, resolved "that the Senate consider the said convention as fully ratified, and return it to the President for promulgation." It was accordingly promulgated by the President, December 21st, 1801, and thus became the supreme law of the land in France and in the United States. Both countries were well out of a most troublesome and dangerous difficulty.

The net result was that the United States assumed the claims of its citizens against France by thus using them in offset in settlement of the claims of France against her, and, in return, France released her treaty obligations, past, present and future, against the United States. The United States thus became absolved from that troublesome guarantee of the



French islands, from the grant of the exclusive privileges made to the French, and from all claims for damages arising from non-fulfilment of these obligations. Such was the opinion of the statesmen conducting the negotiations, and of most of the leading statesmen of that period and their successors to the present time. (See, for instance, the letter from the Hon. W. C. Preston, of January 29th, 1844, Appendix No. 3 to the speech of the Hon. John M. Clayton delivered in the Senate, April 23d and 24th, 1846; and the letter from the Hon. Timothy Pickering, Secretary of State under Washington, dated May 19th, 1824, Appendix No. 2 to the same speech.) The Emperor Napoleon at Saint Helena, dictating the events of his reign, said: "The suppression of this article" (the second article of the convention of 1800) "at once put an end to the privileges which France had possessed by the treaty of 1778, and annulled the just claims which America might have made for injuries done in time of peace." (*Gourgaud's Memoirs of the History of France*, vol. ii., p. 129.)

The case was clearly stated by Henry Clay, while Secretary of State, in the message of the President to the Senate on French Spoliations (*Senate Document No. 102, 1826, p. 7*):

"The two contracting parties thus agreed by the retrenchment of the second article mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations, under the color of French authority, in contravention to law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce, and the convention of the 14th of November, 1788. Whatever obligations or indemnities from these sources either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions was that of the renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced can only be matter of speculation. The amount of the indemnities due to citizens of the United States was very large; and on the other

hand the obligation was great (to specify no other French pretensions) under which the United States were placed, in the 11th article of the treaty of alliance of 6th of February, 1778, by which they were bound forever to guarantee from that time their possessions to the crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain: all these possessions having been, it is believed, conquered at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France."

Mr. Madison, then Secretary of State, in an official communication to our Minister, Mr. Pinckney, wrote:

"The claims from which France were released were admitted by France, and the release was for a valuable consideration, in a correspondent release of the United States from certain claims on them."

Mr. Pickering wrote, November 19th, 1824:

"Then it seems clear that as our government applied the merchants' property to buy off those old treaties, the sums so applied should be reimbursed."

And Chief Justice Marshall, himself at one time one of the plenipotentiaries, as we have seen, and with the very best of opportunities for judging of this matter, said he was satisfied from his own knowledge our government was under the strongest obligation to compensate the sufferers by the French spoliations.

All through this century resolutions and reports of committees of many of the State Legislatures have recommended to Congress the payment of these claims. Memorials innumerable have been presented to Congress from claimants and their heirs. These claims have been acknowledged to be just claims against the United States by our statesmen all through the century, including Webster, Clay, Sumner and others illustrious in the annals of Congress and the history of our country. These memorials and petitions for redress have been referred to forty-two committees of Congress since 1800.

The first two committees (in 1802 and 1807) made no report. The next (in 1818, 1822 and 1824) reported adversely. But every report made since then, thirty-seven in number, has recommended the allowance of these claims. The first five reports were not favorable, because so little was then known about the matter, even to the committee or claimants themselves. In 1826 the President, in compliance with a resolution of the Senate, sent in a message to the Senate with copies of all the instructions to our ministers and envoys to France, and of all the correspondence and negotiations on the subject, making a thick volume of 840 pages. This is the Senate Document No. 102, 1826, to which I have often referred. Then for the first time did the country and the claimants themselves know the full strength and justice of these claims, and since then every committee of Congress to which this matter has been referred has reported favorably upon these claims and recommended measures for their adjudication and allowance; that is to say, since 1826, when this Senate Document No. 102 was published, committees of Congress have reported in favor of these claimants thirty-seven times and still their just claims remain unpaid. It would be difficult to find any parallel instance in history of such glaring and perverse injustice.

Several causes combined have prevented the acknowledgment and payment by Congress of these claims. As explained above, it was not until 1826 that they were really understood. The South, then in power, was jealous of the North, and of these claims; and Congress was always appalled by their magnitude. We must remember that before 1861 very different ideas obtained over what obtain now, as to our wealth and resources and ability to pay national claims, immense in amount.

Before the establishment of the Court of Claims there was no adequate tribunal to refer such claims to, for adjudication as to their merits and validity. A committee of Congress, sitting during the recess, as was sometimes proposed, was

entirely incompetent for such work. And so these claims have dragged along, and we have all seen piteous accounts in the newspapers of the death in some almshouse or town poor-farm of the descendant of some merchant brought to ruin early in the century by acts of French spoliation, some poor creature whose life for fifty years was spent hoping for that justice from our Government he had a right to expect, but which never came.

In 1846 the bill recommended by the committee for the relief of these claimants passed both houses of Congress, but was vetoed by President Polk. In 1855 the bill recommended by the committee again passed both houses, but was vetoed by President Pierce. In brief, Polk argued that it was too late in the season and he had but little time to examine the matter; that the amount involved was large, while the country was in debt, that the claims were stale, that it was not proposed to pay them in full, &c., &c.

Pierce argued that the passage of such a measure would inculcate those who for fifty years had failed to pass the measure; that as the treaties were abrogated by one party, neither party had claims to release under them—as if one party can legally rescind a contract, or if it could, that it could annul all claims arising prior to such rescission—with other objections which we cannot stop to examine, but all of which were frivolous and wide of the mark.

The following is a list of the reports of committees of Congress upon these claims (from *Report No. 109, House of Representatives, 48th Congress, 1st session,*) :



Number.	Where reported.	By whom reported.	Committee.	Date.	Bills and reports.	Detailed reports.
1	House..	Mr. Giles (1).....	Select.....	April 22, 1802.....	.....	R.
2	House..	Mr. Marion (2).....	Select.....	February 18, 1807..	.....	R.
3	Senate..	Mr. Roberts.....	Claims.....	March 3, 1818.....	Adverse, No. 124.....	R.
4	House..	Mr. Russell.....	Foreign Affairs...	January 31, 1822...	Adverse, No. 32.....	R.
5	House..	Mr. Forsyth.....	Foreign Affairs...	March 25, 1824...	Adverse, No. 94.....	R.
6	Senate..	Mr. Holmes.....	Select.....	February 8, 1827...	Favorable, No. 48.....	R.
7	House..	Mr. E. Everett.....	Foreign Affairs...	May 21, 1828.....	Favorable, No. 263...	R.
8	Senate..	Mr. Chambers.....	Select.....	May 24, 1828.....	Favorable, bill 206...	R.
9	Senate..	Mr. Chambers.....	Select.....	February 11, 1829..	Favorable, bill 76...	R.
10	House..	Mr. E. Everett.....	Foreign Affairs...	February 16, 1829..	Favorable, bill 82...	R.
11	Senate..	Mr. E. Livingston..	Select.....	February 22, 1830..	Favorable, bill 103...	R.
12	Senate..	Mr. E. Livingston..	Select.....	December 21, 1830.	Favorable, bill 31...	R.
13	Senate..	Mr. E. Livingston..	Select.....	January 14, 1831...	Favorable, bill 32...	R.
14	Senate..	Mr. Webster (3)....	Select.....	December 10, 1834.	Favorable, bill 5...	R.
15	Senate..	Mr. Wilkins.....	Select.....	December 20, 1831.	Favorable, bill 9...	R.
16	House..	Mr. E. Everett.....	Foreign Affairs...	February 21, 1835..	Favorable.....	R.
16	House..	Mr. Cambreling....	Foreign Affairs...	.....	Minority adverse statement..	R.
17	House..	Mr. Howard.....	Foreign Affairs...	January 29, 1838...	Favorable, bill 452...	R.
18	House..	Mr. Cushing (4)....	.....	March 31, 1838.....	Favorable statement...	R.
19	House..	Mr. Cushing.....	Foreign Affairs...	April 4, 1840.....	Favorable.....	R.
19	House..	Mr. Pickens.....	Foreign Affairs...	.....	Minority adverse statement..	R.
20	House..	Mr. Cushing.....	Foreign Affairs...	December 9, 1841...	Favorable, bill 57...	R.
21	Senate..	Mr. Choate.....	Foreign Relations..	January 28, 1842...	Favorable, bill 148...	R.
22	Senate..	Mr. Archer.....	Foreign Relations..	January 5, 1843...	Favorable, bill 64...	R.
23	House..	Mr. C. J. Ingersoll.	Foreign Affairs...	April 17, 1844.....	Favorable, bill 339...	R.

(1) Favorable statement of facts, without coming to any conclusion.  
 (2) Favorable, including and adopting Mr. Giles's report of April 22, 1802.  
 (3) This bill was voted by the Senate, February 3, 1835; yeas 25, nays 20.  
 (4) Individual, by consent of the House.

Number.	Where reported.	By whom reported.	Committee.	Date.	Bills and reports.	Detailed reports.
24	Senate..	Mr. Choate.....	Foreign Relations..	May 29, 1844.....	Favorable, bill 180.....	R.
25	Senate..	Mr. Choate (5).....	Foreign Relations..	December 23, 1844.	Favorable, bill 47.....	R.
26	Senate..	Mr. Clayton (6)....	Select.....	February 2, 1846...	Favorable, bill 68.....	R.
27	House..	Mr. Tru. Smith (7)...	Foreign Affairs...	July 16, 1846.....	Favorable, bill 68.....	R.
28	Senate..	Mr. Morehead.....	Select.....	February 10, 1847..	Favorable, bill 156...	R.
29	House..	Mr. Tru. Smith.....	Foreign Affairs...	January 4, 1848...	Favorable, bill 21...	R.
30	Senate..	Mr. Tru. Smith.....	Select.....	February 5, 1850...	Favorable, bill 101...	R.
31	House..	Mr. Buel.....	Foreign Affairs...	June 14, 1850.....	Favorable, bill 318...	R.
32	Senate..	Mr. Tru. Smith (8)...	Select.....	January 24, 1851...	Favorable, bill 101...	R.
33	Senate..	Mr. Bradbury.....	Select.....	January 14, 1852...	Favorable, bill 64...	R.
34	Senate..	Mr. Hamlin.....	Select.....	February 15, 1854..	Favorable, bill 36...	R.
35	House..	Mr. Bayly (9).....	Foreign Affairs...	January 4, 1855...	Favorable, bill 117...	R.
36	House..	Mr. Pennington....	Foreign Affairs...	March 3, 1857.....	Favorable, bill 865...	R.
37	Senate..	Mr. Crittenden (10)..	Select.....	February 4, 1858...	Favorable, bill 45...	R.
38	House..	Mr. Clingman.....	Foreign Affairs...	May 5, 1858.....	Favorable, bill 552...	R.
39	House..	Mr. Royce.....	Foreign Affairs...	March 29, 1860...	Favorable, bill 259...	R.
40	Senate..	Mr. Crittenden.....	Select.....	June 11, 1860.....	Favorable, bill 428...	R.
41	Senate..	Mr. Sumner.....	Foreign Relations..	January 13, 1862...	Favorable, bill 114...	R.
42	Senate..	Mr. Sumner.....	Foreign Relations..	January 20, 1863...	Favorable, bill 114...	R.
		Mr. Frye.....	.....	February —, 1882...	Favorable.....	R.
		Mr. Walker.....	.....	January 18, 1882...	Favorable.....	R.

(5) This bill was ordered to be engrossed and read a third time, February 10, 1845; by yeas 26, nays 15, but not reached.  
 (6) This bill was voted by the Senate on the 9th of June, 1846; yeas 27, nays 23.  
 (7) This bill (being Mr. Clayton's bill as voted by the Senate) was voted by the House by yeas 94, nays 57. It thus passed both Houses, and was vetoed by President Polk as a Senate bill; and on the veto the Senate voted yeas 27, nays 15—not two-thirds.  
 (8) This bill was voted by the Senate; yeas 30, nays 26.  
 (9) This bill was voted by the House, yeas 111, nays 77; and was voted by the Senate February 6, 1850, yeas 28, nays 17, and was vetoed by President Pierce as a House bill; and the House vote on the veto was yeas 113, nays 81—not a two-thirds—so the bill was lost.  
 (10) This bill (Mr. Crittenden's, No. 45) was voted by the Senate on the 10th January, 1859; yeas 26, nays 20.

The General Assembly of Rhode Island has been equally persistent in asking for recognition of the justice of these claims and that provision be made for their payment. Upon examination of the schedules I find that action thereon has been taken as follows :

At the January session, 1832, p. 42, it was

“ *Resolved*, that our Senators in Congress be instructed to use their exertions to secure for our citizens all the compensation for French spoliations, which, by treaty with France or otherwise, may be constitutionally provided and secured.”

At the January session, 1844, (*Acts and Resolves*, p. 57,) on the report of the committee,

“ *Resolved*, that prior to the convention between the United States and France in 1800, there were large and just claims due from France to citizens of the United States, for spoliations on their commerce, which claims were asserted as just by the Government of the United States, and were not rejected by France :

“ *Resolved*, That by the ratification of said convention the Government of the United States released France from the payment of said claims, in consideration of a corresponding release from the claims of France against the United States, and from the obligations of the treaties which had before existed between the two nations : and that, in the opinion of this Assembly, the said mutual release has been of great advantage to the United States as a nation :

“ *Resolved*, That this was such an appropriation of private property to public use as, in the opinion of this Assembly, entitles the said citizens to just compensation from the government of the United States.

“ *Resolved*, That a copy of these resolutions and the accompanying report be transmitted by the Secretary to each of our Senators and Representatives in Congress, and that they be requested to use their exertions for procuring a just indemnification to said citizens.”

These resolutions were adopted upon recommendation of the committee to which the subject was referred. Their report was full and lucid, and is one of the most clear, brief

expositions extant, and is deserving of careful study. It is out of print, but ought now to be reprinted.

At the January session, 1846, (p. 92, *Schedules*,) we find that

“ His Excellency the Governor having communicated to this General Assembly resolutions of the legislature of Massachusetts strongly urging on the United States Government payment of the claims of American citizens for spoliations committed on their commerce, under authority of the French Government, anterior to the year 1800, the indemnity for which was assumed by the United States, and France released therefrom, by the convention of that year, ratified in 1801 ; and this General Assembly concurring in the opinion expressed by the Massachusetts legislature, and reaffirming the report and resolutions adopted at the January session, 1844, and accepting the report made by the committee at the present session : do therefore

“ *Resolve*, That the said claims are honestly due, and that a longer-continued refusal of payment, after many favorable reports have been made by committees to both houses of Congress, would be a denial of justice by that august body, highly derogatory to its character, and flagrantly injurious to our national credit :

“ *Resolved*, That his Excellency the Governor be requested to transmit copies of these resolutions to the President of the United States, to the Governor of each State and to each of our Senators and Representatives in Congress, and that said Senators and Representatives be requested to use all honorable means and their most earnest efforts to procure the passage of an act which shall give full indemnity and ample justice to these long-delayed and much-injured claimants.”

I have not been able to find the report of the committee here referred to. It was not published in the schedules of the General Assembly, and careful search in the vaults of the State House has been made for the original, but it cannot be found. I hope that anyone having a copy of it will make it known now, while all are so much interested in this subject.

In May, 1846, (*Schedules*, p. 73,) we find that the General Assembly again took action on this matter, as follows :



“Whereas, among the numerous class of American citizens who had just claims upon the Government of France for spoliations upon their commerce prior to the 30th of September, 1800, for which that government admitted its liability for adequate indemnities, are many citizens of this State: that, by the treaty of that date, the United States, in consideration of the release of the ‘burdensome and onerous guaranties’ stipulated in the treaties of ‘alliance’ and of ‘amity and commerce’ of 1778, fully exonerated and released the Government of France from such indemnities, and that, by subsequent conventions between the two Governments of April 30, 1803, for the cession and acquisition of Louisiana, the United States became legally and equitably obligated to their citizens for the aforesaid indemnities, yet they have not been satisfied in conformity to the conventions as aforesaid: and whereas, a bill appropriating five millions of dollars for the *pro rata* liquidation of said indemnities is now pending before Congress, therefore

“*Resolved*, That in the opinion of this General Assembly the aforesaid claims, with interest, are justly due and demandable of the Government of the United States;

“*Resolved, further*, That our Senators in Congress be, and are hereby instructed, and our Representatives be requested, to use their best exertions to procure from the government as full and adequate indemnities therefor as though said claims still existed against the Government of France, and to aid, by all proper means, the passage of any bill for the speedy liquidation thereof.

“*Resolved*, That his Excellency the Governor transmit copies of these resolutions to each of our Senators and Representatives, and request them to lay the same before their respective Houses.”

There is a very prevalent belief that these spoliation claims were paid, or settled for with France at the time of the Louisiana purchase. But this is a mistake. Lest it may be thought that the resolution of our General Assembly, which I have just read, proves this belief to be correct, I will explain briefly that on the 30th of April, 1803, there was concluded at Paris a treaty and two conventions between France and the United States. The treaty ceded Louisiana to the United States for eighty millions of francs. The first convention pro-

vided for the payment of sixty millions of francs, part of the eighty millions, in United States stock. The second convention provided for the payment of the “debts” embraced in the fifth article of the convention of 1800, which we have already considered, these “debts” being specifically explained not to include prizes whose condemnation was confirmed, but to include only supplies and embargoes. To pay these “debts” the remaining twenty millions of the eighty millions of francs was agreed to be paid by the United States to these creditors upon satisfactory proof thereof. These spoliation claims proper, arising from illegal captures and sale of American vessels, were therefore not included.

The last resolution of our General Assembly on this subject was in January, 1872, (*Schedules*, p. 225,) as follows:

“Resolution instructing the Rhode Island delegation in Congress to use their best exertions to provide for the payment of claimants for French spoliations prior to the year 1800.

“*Voted and Resolved*, (the Senate concurring herein), That the Senators of this State in Congress be, and the same are, hereby instructed, and that the Representatives of this State in Congress be, and the same are, hereby requested, to use their best exertions to procure the passage of an Act of Congress granting indemnity to citizens of the United States for French spoliations on American commerce prior to the year 1800.”

In 1799 these claims were estimated at twenty millions of dollars in amount. Senator Sumner in his valuable report on this subject (*Senate Report No. 10, 41st Congress, second session*,) deducted the payments made by France after that date, \$728,000; for debts paid by France under the last-mentioned convention of 1803, \$3,750,000; and payments made under the treaty of 1819 for vessels captured and sold in Spanish ports, \$2,848,000, leaving a balance of \$12,676,380. By a different method he arrived at nearly the same result, \$12,572,000. This would assume that all the losses can be legally proved, which, unfortunately, is by no means

the case. Many of the original papers are lost, mislaid or destroyed by fire or otherwise. Some were filed in Washington, sent to Paris by our government, and have disappeared. All the witnesses are dead, most of them leaving no legal evidence that can be used to prove these losses. It is doubtful if one quarter of these losses can be proved at the present day.

The act to provide for the ascertainment of these claims passed Congress, January 20th, 1885. It authorizes claimants for indemnity for acts of spoliation by the French prior to the convention of September 30th, 1800, to apply by petition to the United States Court of Claims. Thereupon the Court shall examine and determine the validity of the claims, their present ownership, and what assignment thereof, if any, has been made. The Attorney-General of the United States is directed to resist all claims presented by all proper legal defences. The Secretary of State is directed to procure all such evidence as can be procured from abroad as to these acts of spoliation, all of which, with all papers relating thereto on file in the Department of State in Washington, may be used by the claimants or by the United States. On the first Monday of December in each year the Court is directed to report to Congress the facts and conclusions reached in each case decided. All claims must be presented within two years from January 20th, 1885. The decisions of the Court are not final, however, as Congress expressly reserves the right under the act to pay or not to pay the claims, even after they are proved. But no doubt is felt that Congress will order the payment of claims found to be valid by the Court, especially if the amount prove to be small. The question is often asked whether Congress will pay interest also on the claims allowed. There can be no doubt interest should be paid, as the country has reaped the benefit for eighty-five years of the settlement then made for these claims; but the interest would amount to five times the principal, and should the claims allowed prove large in amount the sum total would prove appalling. Perhaps a low

rate of interest may be allowed,—perhaps, if the amount finally proved turns out to be small, Congress, in a burst of generosity, may direct it to be paid with interest.

Acting under the authority conferred by the Act of Congress, the Secretary of State sent the Hon. James Broadhead to Paris last summer to procure copies of the decrees of condemnation of the captured vessels from the French courts, etc., but it is reported he found they had all been destroyed during the various revolutions the French capital has undergone. This winter he is to visit the Windward Islands for the same purpose, and it is hoped he may be more successful in his search there. I have in my possession one of the decrees of condemnation by the court in Guadeloupe of one of our Rhode Island vessels, the schooner "Betsey," the best possible proof of the validity of the claim. I am often asked what proof is necessary to make out a case to be submitted to the Court of Claims. In the Custom House in Providence and Newport we find, bound in books, the registers of the vessels. The manifests should also be on file there, but not having been bound some of them are lost. Upon the return home of the captain after the capture of his vessel, in order to account for her disappearance, his protest, under oath, was filed, stating the facts connected with the capture, when made, where and by what court the vessel was condemned, etc. Then an entry was made on the back of the register, "Captured by the French," with the date, and perhaps a statement showing what French port the vessel was taken into, and sometimes a memorandum is added, "Captain's protest on file." This protest is always valuable evidence, because made at the time and without reference to its ever being used as evidence in the recovery of the loss. It was made, as such protests, so called, are made now, to account for the disappearance of the vessel and to discharge the sureties from further obligation on their bond. Should our government be able to recover the decrees of condemnation of the French tribunals in the ports of the Windward Islands, their coincidence with the evidence found here would be conclusive.



Upon examining the registers the small tonnage of the vessels is remarkable. Our ancestors carried on trade and business generally in a small way compared with the present way. These captured vessels varied from 18 to 165 tons, the latter being the largest I find on my list. Last summer all the evidence in our Custom Houses relating to this subject was ordered sent to Washington for use by either side as evidence in the trial of these petitions, according to the terms of the act of Congress. Before they went I made memoranda of them. Among the vessels captured I find the Neptune, Happy Return, Betsey, Sally, William, Favorite, Ruth, Fanny, Ranger, Franklin, Becca, Peyton Randolph, Greenwich, Union, Lily, William, Betsey, Nancy, Polly, Reliance, Good Intent, Patty, Sophia, Gen. Greene, Commerce, Eliza, Industry, Mary, Agnorina, Brandywine, Alice, Nancy, Orange, Sukey, Sukey, Nancy, Henry, Ranger, Caroline, Peace, Lydia, Union, Columbia, Joanna, Friendship, Edward, Minerva, Betsey, Friendship, Friendship, Diana, Rover, Clementina, and others. Among the names of owners of these vessels I find the names of Simeon Martin, Peleg Clarke, Caleb Gardner, William Vernon, Benjamin Fry, Nicholas Peck, Thomas Church, Joseph Wardwell, Shearjashub Bourne, Samuel Wardwell, Ebenezer Cole, Walter Channing, Archibald Crary, George Gibbs, Frederic Crary, John Cook, Ebenezer Woodward, Jr., Anson Nye, Solomon Nye, Nathaniel Gladding, Daniel Gladding, Charles Collins, Jr., Isaac Manchester, Edward Church, Henry Munroe, Thomas Butler, Styles Phelps, Aaron Usher, Levele Maxwell, Robert N. Auchmuty, John W. Russell, Nathaniel Howland, Allen Munroe, William Champlin, James Maxwell, Constant Taber, Simon Davis, William Gardner, William Britton, Stephen Arnold, William Arnold, Perry G. Arnold, John Bullock, Lemuel Bishop, Thos. L. Halsey, James Atwood, John I. Clarke, Samuel W. Greene, Daniel Mathewson, Noel Mathewson, Benjamin F. Carlile, Samuel Carlile, Daniel Allen, Samuel Allen, Moses Lippitt, Thomas Jackson, Edward Dickens, Benjamin Clifford, Edward Dexter, Samuel Butler, Seth Wheaton, Richard Jackson, Zach-

ariah Allen, Levi Bosworth, Samuel Aborn, Jr., Lowry Aborn, John A. Aborn, Cyrus Butler, Cyrus Northup, Jonathan Arnold, Eleazer Ellis, Joseph McClintock, Andrew Boyd, Rufus Williams, Wilson Jacobs, Thomas Sprague, Michael Anthony, Philip Peckham, Jr., Henry R. Cooper, Ebenezer Tyler, 3d, and others. I should be very glad to find out who are the heirs of many of these claimants, but I have not yet been able to. There are also claimants in Rhode Island for insurance losses paid by insurance companies. These claims can be preferred by petition signed by the company if still in existence, or by its assignee. The petition for the claim of an individual must be signed and preferred by his administrator.

I have two petitions signed by the original administrator, but generally speaking, an administrator *de bonis non* must first be appointed. As soon as one is appointed, but not until then, armed with his power of attorney and certified copy of his letter of administration I have the requisite authority to apply to the Department of State in Washington, and upon payment of the usual fees for copying, I am furnished with copies of whatever there may be on record there concerning the capture in question. This often supplements other proof already found here. I meet with some cases in which all the proofs of capture were retained here by the claimant, and in other instances they were all sent to Washington about the time of the capture, in response to the request of the Secretary of State. In some instances all the papers were placed in the hands of some member of Congress or of some lawyer, now dead, and no trace of them can now be found. The list of claimants and vessels published by the Government last winter (*Senate, Ex. Doc. No. 205*) is valuable and of great assistance, but is by no means exhaustive, because it includes only claims filed in Washington.

As to the bibliography of the subject, a list of books, articles, reports, speeches, &c., published in No. 71 of the Bulletin of the Public Library of Boston (vol. 6, No. 5) is of great value. And the message from the President

of the United States to the Senate, May 20, 1826, (*Senate Doc. No. 102*) already spoken of, contains all the correspondence, negotiations, &c., relating to this interesting chapter in our history, although it cannot be said to be one that redounds to the credit either of the United States or of France.

To conclude, in the eloquent words of Sumner :

“Of all claims in our history, these are most associated with great events and great sacrifices. First in time, they are also first in character, for they spring from the very cradle of the republic and the trials of its infancy. To comprehend them, you must know first, how independence was won; and, secondly, how, at a later day, peace was assured. Other claims have been merely personal or litigious; these are historic. Here were ‘individual’ losses, felt at the time most keenly, and constituting an unanswerable claim upon France, which were employed by our Government at a critical moment, like a credit or cash in hand, to purchase release from outstanding ‘national’ obligations, so that the whole country became, at once, the trustee of these sufferers, bound, of course, to gratitude for the means thus contributed, but bound also to indemnify them against these losses. And yet these sufferers, thus unique in situation, have been compelled to see all other claims for foreign spoliations satisfied while they alone have been turned away. As early as 1794 our plundered fellow citizens obtained compensation, to the amount of more than ten million dollars, on account of British spoliations. Several indemnities have been obtained since from Spain, Naples, Denmark, Mexico, and the South American states, while, by the famous convention of 1831, France contributed five million dollars to the satisfaction of spoliations under the continental system of Napoleon. Spain stipulated to pay for every ship or cargo taken within Spanish waters even by the French, so that the French spoliations on our commerce within Spanish waters have been paid for, but French spoliations on our commerce elsewhere before 1800 are still unredeemed. Such has been the fortune of claimants the most meritorious of all.

In all other cases there has been simply a claim for foreign spoliations, but without any superadded obligation on the part of our Government. Here is a claim for foreign spolia-

tions, the precise counterpart of all other claims, but with a superadded obligation, on the part of our Government, in the nature of a debt, constituting an *assumpsit*, or implied promise to pay; so that these sufferers are not merely *claimants* on account of French spoliations, but they are also *creditors* on account of a plain assumption by the Government of the undoubted liability of France. The appeal of these *claimant-creditors* is enhanced beyond the pecuniary interests involved when we consider the nature of this assumption, and especially that, in this way, our country obtained a final release from embarrassing stipulations with France contracted in the war for national independence. Regarding it, therefore, as a *debt*, it constitutes a part of that sacred debt incurred for national independence, and is the only part remaining unpaid.”